



3510-16-P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Practitioner Conduct and Discipline

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the extension of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email:* InformationCollection@uspto.gov. Include “0651-0017 comment” in the subject line of the message.

- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Dahlia George, Office of Enrollment and Discipline, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4097; or by email at Dahlia.George@uspto.gov with “0651-0017 comment” in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

The Director of the United States Patent and Trademark Office (USPTO) has the authority to establish regulations governing the conduct and discipline of agents, attorneys, or other persons representing applicants and other parties before the USPTO (35 U.S.C. 2 and 32-33). The USPTO Rules of Professional Conduct at 37 CFR 11.101-11.804 describe how agents, attorneys, or other practitioners representing applicants and other parties before the USPTO should conduct themselves professionally and outline their responsibilities for recordkeeping and reporting violations or complaints of misconduct to the USPTO, while the Investigations and Disciplinary Proceedings Rules (37 CFR 11.19-11.60) dictate how the USPTO can discipline agents, attorneys, or other persons representing applicants and other parties before the USPTO.

The Rules require an attorney or agent to maintain complete records of all funds, securities, and other properties of clients coming into his or her possession, and to render appropriate accounts to the client regarding the funds, securities, and other properties of clients coming into the practitioner's possession, collectively known as "client property." These recordkeeping requirements are necessary to maintain the integrity of client property. Each State Bar requires its attorneys to perform similar recordkeeping.

The Rules also require an attorney or agent to report knowledge of certain violations of the Rules to the USPTO. If a complaint is found to have merit, the USPTO will investigate and possibly prosecute violations of the Rules and provide the practitioner with the opportunity to respond to the complaint. The Director of the Office of Enrollment and Discipline (OED Director) may, after notice and opportunity for a hearing, suspend, exclude, or disqualify any practitioner from further practice before the USPTO based on non-compliance with the regulations. Practitioners who have been excluded or suspended from practice before the USPTO, practitioners transferred to disability inactive status, and practitioners who have resigned must keep and maintain records of their steps to comply with the suspension or exclusion order, transfer to disability inactive status, or resignation, should they seek reinstatement. These records may serve as the practitioner's proof of compliance with the order, transfer, resignation, and Rules.

The information collected, i.e., reports of alleged violations of the Rules, is used by the OED Director to conduct investigations and prosecute violations, as appropriate.

If this information is not collected, the OED Director would have no knowledge of alleged violations and would be unable to enforce this provision of the Rules.

II. Method of Collection

Electronically via e-mail; by postal mail, facsimile, or hand delivery in paper form.

III. Data

OMB Number: 0651–0017.

IC Instruments: The individual instruments in this collection, as well as their associated forms, are listed in the table below.

Type of Review: Revision of a Previously Existing Information Collection

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 11,065 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public between 1 hour and 20 hours to submit a single item in this collection depending on the instrument used, including the time to gather the necessary information, prepare the appropriate form or petition, and submit the completed request to the USPTO. The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this collection are shown in the table below.

Estimated Total Annual Respondent Burden Hours: 12,225 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$3,177,523.00. The USPTO expects that agents will complete the Recordkeeping Maintenance & Disclosure item at

an hourly rate of \$249 as published in the 2013 AIPLA *Report of the Economic Survey* and that practitioners will complete the Recordkeeping Maintenance Under Suspension or Exclusion from the USPTO item at an hourly rate of \$389 as published in the 2013 AIPLA *Report of the Economic Survey*. The USPTO further expects that members of the public will complete the Complaint/Violation Reporting at a blended hourly rate of \$284.83. This blended rate is based on data from both the 2013 AIPLA *Report of the Economic Survey* and the 2014 Bureau of Labor Statistics (BLS) National Occupation Employment and Wage Estimates, and is comprised of 50 percent by the practitioner hourly rate of \$389; 25 percent by the agent hourly rate of \$249; and 25 percent by the hourly rate for Scientists and Engineers of \$46.32. Using these hourly rates, the USPTO estimates \$3,177,523.00 per year for the total hourly costs associated with respondents.

IC Number	Information Collection Instrument	Estimated time for response (hours) (a)	Estimated Annual Responses (b)	Estimated annual burden hours (a) x (b) = (c)	Rate (\$/hr) (d)
1	Recordkeeping Maintenance & Disclosure (includes advertisements, disclosure requirements relating to soliciting professional employment, notifications by non-attorney practitioner of inadvertently sent documents, and financial books and records such as trust accounts, fiduciary accounts, and operating accounts)	1	10,825	10,825	\$249.00
2	Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion from the USPTO	20	40	800	\$389.00
3	Complaint/Violation Reporting	3	200	600	\$284.83
TOTAL	-----	-----	11,065	12,225	-----

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$1,083.05. There are no capital start-up, maintenance, or recordkeeping costs, as well as no filing fees associated with this information collection. The recordkeeping costs included with the recordkeeping-related responses are a burden hour/burden cost to respondents and are

not part of the annualized cost burden for this collection. There are, however, associated postage costs.

Customers may incur postage costs when submitting some of the items covered by this collection to the USPTO by mail. The USPTO expects that practitioners will submit affidavits with attachments via postal mail or hand delivery in association with the Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion item, and estimates that 99 percent of those affidavits will be submitted by mail with the remainder submitted by facsimile or hand delivery. The USPTO further expects that 25 percent of the Complaint/Violation Reporting item will be submitted electronically. Of the non-electronic submissions for this item, 1 percent of the item's total responses will be submitted by hand delivery or facsimile and the remaining 74 percent will be submitted by postal mail. These two items are estimated to produce a total of 187 mailed submissions.

The average first-class USPS postage costs for a one-pound mailed submission in a flat-rate envelope and a three-pound mailed submission in a small flat-rate box are \$5.75 and \$5.95, respectively. The Recordkeeping Maintenance Regarding Practitioners Under Suspension or Exclusion item requires the more expensive of those two postage options, while the Complaint/Violation Reporting item requires the cheaper flat-rate envelope. The USPTO calculates that the total postage costs will be \$1,083.05. Therefore, the USPTO estimates that the total annual non-hour cost burden for this collection, in the form of postage costs, is \$1,083.05.

IV. Request for Comments

Comments are invited on:

- (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) ways to enhance the quality, utility, and clarity of the information to be collected; and
- (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, e.g., electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: June 12, 2015.

Marcie Lovett

Records Management Division Director, USPTO

Office of the Chief Information Officer.

BILLING CODE 3510-16-P

